

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alex Guinn	Team: Squad #14	CCRB Case #: 202006125	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 09/09/2020 1:00 PM	Location of Incident: § 87(2)(b)	Precinct: 105	18 Mo. SOL 3/9/2022	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 09/09/2020 9:06 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 09/09/2020 9:06 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Marcelino Roman	30168	965481	105 PCT
2. POF Ashley Aufiero	19013	964897	105 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Ashley Aufiero	Abuse: Police Officer Ashley Aufiero threatened to arrest § 87(2)(b)	§ 87(2)(b)
B.POM Marcelino Roman	Abuse: Police Officer Marcelino Roman threatened to remove § 87(2)(b) to the hospital.	§ 87(2)(b)

Case Summary

On September 9, 2020, § 87(2)(b) filed the following complaint via the CCRB's website.

On September 9, 2020, at approximately 1:00 p.m., § 87(2)(b) was at her place of residence, located at § 87(2)(b) in Queens, when she had a dispute with her landlord and housemates, § 87(2)(b) and § 87(2)(b). As a result, § 87(2)(b) called 911, and Police Officer Marcelino Roman and Police Officer Ashley Aufiero, both of the 105th Precinct, arrived on scene. PO Roman and PO Aufiero spoke with all parties involved in the incident. During the interaction, PO Aufiero allegedly told § 87(2)(b) "go back inside, or else", which § 87(2)(b) interpreted as a threat of arrest (**Allegation A: Abuse of Authority**, § 87(2)(g)). PO Roman told § 87(2)(b) "Ma'am, you need to stop. Do you want to go to the hospital? If you don't stop it, we are going to send you to the hospital to get checked out" (**Allegation B: Abuse of Authority**, § 87(2)(g)). No arrests or summonses resulted from this incident.

Body-worn camera footage (BWC) was obtained for PO Roman and PO Aufiero, the relevant aspects of which will be discussed in further detail below.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Ashley Aufiero threatened to arrest

§ 87(2)(b)

The investigation established the following facts:

On September 9, 2020, at approximately 1:00 p.m., § 87(2)(b) was in the kitchen at § 87(2)(b) in Queens, when she got into a dispute with her landlord and housemates, § 87(2)(b) and § 87(2)(b). § 87(2)(b) and § 87(2)(b) allegedly harassed § 87(2)(b) and spat in her face. As a result, § 87(2)(b) called 911, and PO Roman and PO Aufiero arrived on scene. PO Roman and PO Aufiero spoke with all parties involved, and after assessing the situation, they determined the incident was a landlord-tenant matter, and they advised all parties of such. A UF-61 report for harassment was generated against § 87(2)(b) and § 87(2)(b), and the officers left the scene.

§ 87(2)(b) testified that she was outside the house when she was speaking with PO Roman and PO Aufiero about what occurred. While § 87(2)(b) was speaking with the officers, another housemate, known only as § 87(2)(b), arrived on scene, called § 87(2)(b) a "bitch" and threatened to "slap and kill" § 87(2)(b). § 87(2)(b) proceeded to argue back with § 87(2)(b) and she called her a "bitch" and asked her why she was renting out rooms if she did not want to help her tenants. Then, PO Aufiero allegedly told § 87(2)(b) "go back inside, or else", which § 87(2)(b) interpreted as a threat of arrest. However, PO Aufiero never explicitly told § 87(2)(b) that she was going to be arrested. Nevertheless, § 87(2)(b) complied with PO Aufiero's orders and went inside the house. PO Aufiero and PO Roman remained outside as they spoke with § 87(2)(b) (BR 01-02).

PO Aufiero's body-worn camera (BWC) video captures the argument between § 87(2)(b) and § 87(2)(b) at the 8:50 mark, and at no point does PO Aufiero say anything along the lines of "go back inside, or else" nor does it show PO Aufiero make any threats of arrest towards § 87(2)(b). Instead, in the footage, PO Aufiero tells § 87(2)(b) and § 87(2)(b) "enough, enough, enough, stop going back and forth." Furthermore, at no point in PO Aufiero's and PO Roman's BWC videos does it show PO Aufiero say anything along the lines of "go back inside, or else" nor does it show PO Aufiero make any threats of arrest towards § 87(2)(b) (BR 03-10).

PO Aufiero testified that as she and PO Roman were speaking to § 87(2)(b) outside, approximately three of the housemates came outside, as well. The housemates and § 87(2)(b) began arguing back and forth about the incident. At some point, PO Aufiero raised her voice and said something to the effect of, "enough is enough. You guys are going back and forth about the house, be the bigger person." Eventually, § 87(2)(b) and the housemates stopped arguing. PO

Aufiero denied telling § 87(2)(b) “go back inside, or else”, or making any mention of arresting § 87(2)(b) as there was nothing § 87(2)(b) could have been arrested for because the situation was a landlord-tenant matter (BR 11).

Similarly, PO Roman testified that while he and PO Aufiero were still outside explaining to § 87(2)(b) that the incident was a landlord-tenant matter, a female relative of the landlord and housemates, § 87(2)(b) arrived on scene. The landlord and housemates were still inside the house at this point. § 87(2)(b) approached § 87(2)(b) PO Aufiero, and PO Roman, and explained that she had part ownership of the property. Then, § 87(2)(b) and § 87(2)(b) began arguing about the situation. PO Roman told § 87(2)(b) and § 87(2)(b) to stop arguing, and he reiterated that the situation was a landlord-tenant matter. PO Roman did not recall if PO Aufiero said anything. However, at no point did PO Roman hear PO Aufiero tell § 87(2)(b) “go back inside, or else”, nor did he hear PO Aufiero make any mentions of arresting § 87(2)(b) as there was nothing § 87(2)(b) could have been arrested for (BR 12).

According to the UF-61 for harassment created by PO Aufiero, § 87(2)(b) is listed as the victim, and § 87(2)(b) and § 87(2)(b) are listed as the perpetrators. The narrative of the UF-61 states that § 87(2)(b) reported that her housemate spat at her and the spit came in contact with her right cheek. The narrative further states that § 87(2)(b) reported that her housemates called her multiple derogatory names, which caused her annoyance and alarm. (BR 13).

§ 87(2)(b) testified that at the point where she was arguing with § 87(2)(b) outside, PO Aufiero told her “go back inside, or else” which she interpreted as a threat of arrest. However, PO Aufiero’s BWC captures § 87(2)(b) and § 87(2)(b) arguing outside, and at no point does PO Aufiero say anything along the lines of “go back inside, or else” nor does it show PO Aufiero make any threat of arrest towards § 87(2)(b). Instead, PO Aufiero simply tells § 87(2)(b) and § 87(2)(b) “enough, enough, enough, stop going back and forth.” Furthermore, PO Roman and PO Aufiero provided consistent testimonies that PO Aufiero never made any mention of arresting § 87(2)(b) as there was nothing § 87(2)(b) could have been arrested for, and the UF-61 listed § 87(2)(b) as the victim on the report. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Abuse of Authority: Police Officer Marcelino Roman threatened to remove § 87(2)(b) to the hospital.

At the 8:50 mark in PO Aufiero’s BWC, § 87(2)(b) asks PO Roman if he and PO Aufiero can make it clear to her landlord and housemates that they are to stop harassing her. § 87(2)(b) then points down the street and says, “she is taking her pictures.” Then, § 87(2)(b) who is not visible, says “I will fucking bite the shit up.” § 87(2)(b) responds, “go ahead, do that.” § 87(2)(b) and § 87(2)(b) begin arguing back and forth. § 87(2)(b) is about 15 to 20 feet away from § 87(2)(b) standing near a white-gated-fence. § 87(2)(b) is standing on the outside stairs that lead to the front door of the house. The women continue to argue, and PO Aufiero says “enough, enough, enough, stop going back and forth.” § 87(2)(b) and § 87(2)(b) continue to argue from their noted positions. PO Roman is in the house and is not in the frame at this point. § 87(2)(b) and § 87(2)(b) continue to argue. § 87(2)(b) does not make any threats towards § 87(2)(b); however, they are both using profanity towards one another. Then, at 10:59, PO Roman exits the house and says to § 87(2)(b) “Ma’am, you need to stop. You want to go to the hospital? If you do not stop it, we are going to send you to the hospital to get checked out, okay?” § 87(2)(b) does not respond (BR 05-06).

At the 2:38 mark in PO Roman’s BWC, § 87(2)(b) informs PO Roman that § 87(2)(b) had a history of sacrificing birds in her room (BR 09-10).

§ 87(2)(b) did not allege that PO Roman told her “If you do not stop it, we are going to send you to the hospital to get checked out” (BR 01).

PO Roman testified that during the incident, he and PO Aufiero explained to § 87(2)(b)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of September 3, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (BR 17).
- § 87(2)(b) [REDACTED]

Squad No.: 14

Investigator	Alex Guinn	Inv. Alex Guinn	10/13/21
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date